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**ORIGINAL**

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District of Hawaii

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Attorneys for Defendant  
DOUGLAS RYCHENER

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

SEP 17 2003

at 1 o'clock and 31 min. M.  
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

|                           |   |                              |
|---------------------------|---|------------------------------|
| UNITED STATES OF AMERICA, | ) | CR. NO. 03-00225 DAE         |
|                           | ) |                              |
| Plaintiff,                | ) | AFFIDAVIT OF LEO B. CASEY IN |
|                           | ) | RESPONSE TO GOVERNMENT'S     |
| vs.                       | ) | MOTION TO QUASH SUBPOENA     |
|                           | ) | DUCES TECUM; CERTIFICATE     |
| DOUGLAS RYCHENER,         | ) | OF SERVICE                   |
|                           | ) |                              |
| Defendant.                | ) | DATE: September 17, 2003     |
|                           | ) | TIME: 2:00 p.m.              |
|                           | ) | JUDGE: Barry M. Kurren       |

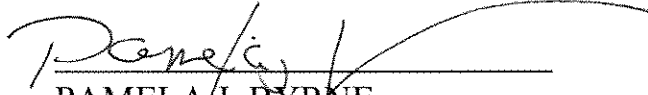
**AFFIDAVIT OF LEO B. CASEY IN RESPONSE TO  
GOVERNMENT'S MOTION TO QUASH SUBPOENA DUCES TECUM**

Defendant, Douglas Rychener, through counsel, Pamela J. Byrne,  
Assistant Federal Defender, hereby submits to the Court the attached Affidavit

*30*

of Leo B. Casey in Response to Government's Motion to Quash Subpoena  
Duces Tecum filed September 16, 2003.

DATED: Honolulu, Hawaii, September 17, 2003.

A handwritten signature in black ink, appearing to read 'P. Byrne', is written over a horizontal line.

PAMELA J. BYRNE  
Attorney for Defendant  
DOUGLAS RYCHENER

SS.

AFFIDAVIT OF LEO B. CASEY

Affiant having first been duly sworn under oath deposes and says that:

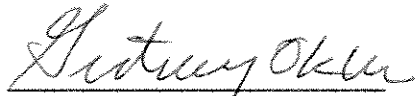
1. I am investigator with the office of the Federal Public Defender;
2. On August 18, 2003, I spoke with Lt. Edwin Tanaka, Custodian of Records for the Hawaii County Police Department, wherein I asked him if he would accept a subpoena duces tecum sent via facsimile machine, which He declined;
3. On August 19, 2003, I informed Lt. Tanaka that I would be serving him the subpoena duces tecum in person on August 20, 2003 pursuant to his request;
4. On August 19, 2003 I sent Lt. Tanaka a five page fax with a cover letter with the notation, "Please check with CIU to see if there is a confidential informant agreement for Gerald Fontes. His supervisors would be Ernest Saldua/Stanley Ha'anio. This subpoena duces tecum is filed under seal (confidential). The US Attorney's office **shall not be informed**. Thank you."
5. On August 20, 2003, I served Lt. Tanaka the subpoena duces tecum in person at the Hilo Police Station. He informed me that he faxed the subpoena duces tecum along with the order stating that these documents were under seal to Kona CIU;
6. On August 22, 2003, our office received records from the Hawaii County Police Department which included only one report from Kona Vice, this prompted our second subpoena duces tecum which requested, with specificity, reports held back by Kona CIU or Kona Vice;
7. On September 5, 2003, I served this second subpoena duces tecum directed to Lt. Robert Hickok on Captain Julian Shiroma at the Kealahou Station;
8. While Lt. Tanaka honored the "under seal" designation of the initial subpoena duces tecum, Lt. Hickok did not and Lt. Hickok notified the U.S. Attorney's office of the subpoena duces tecum and furnished the U.S. Attorney with a faxed copy of the subpoena duces tecum;
9. The Kona CIU and Vice did not comply with the original subpoena duces tecum of August 20, 2003, necessitating the filing of a second subpoena duces tecum;

10. Lt. Hickok violated the Court's order designating the subpoena duces tecum as under seal.

Further affiant sayeth naught.

  
LEO B. CASEY

Subscribed and sworn/affirmed to before me  
this 17<sup>th</sup> day of September, 2003  
by \_\_\_\_\_.

  
Notary Public, State of Hawaii  
My commission expires: 2/18/04

J.S.

**CERTIFICATE OF SERVICE**

I, CHRISTINA FULLER, hereby certify that a true and exact copy of the foregoing document was duly mailed and/or hand-delivered to the following on September 17, 2003:

WES REBER PORTER  
Assistant United States Attorney  
PJKK Federal Building  
300 Ala Moana Boulevard, Room 6100  
Honolulu, Hawaii 96813

Attorney for Plaintiff  
UNITED STATES OF AMERICA

DATED: Honolulu, Hawaii, September 17, 2003.



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CHRISTINA FULLER  
Legal Secretary to  
PAMELA J. BYRNE  
Attorney for Defendant  
DOUGLAS RYCHENER